

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**JOHN L. ANDREWS**  
**Plaintiff,**

**v.**

**CAROLYN W. COLVIN,**  
**Acting Commissioner of Social Security,\***  
**Defendant.**

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**CIVIL ACTION NO. 12-1205**

**ORDER**

**AND NOW**, this 1st day of April 2013, after careful review and independent consideration of the administrative record, and of the Report and Recommendation of United States Magistrate Judge M. Faith Angell, to which no objections have been filed, it is hereby **ORDERED** that:

1. The Clerk of Court is directed to remove this action from the suspense docket and return it to the active docket;
2. The Report and Recommendation is **APPROVED and ADOPTED** as noted herein;<sup>1</sup> and
3. The case is **REMANDED** to the Commissioner for further review consistent with the Report and Recommendation, pursuant to the fourth sentence of 42 U.S.C. § 405(g).

It is so **ORDERED**.

**BY THE COURT:**

**/s/ Cynthia M. Rufe**

**CYNTHIA M. RUFÉ, J.**

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\* Substituted pursuant to Fed. R. Civ. P. 25(d).

<sup>1</sup> The Court concludes that the decision of the Administrative Law Judge was not supported by substantial evidence with regard to Plaintiff's sleep apnea and narcolepsy; the ALJ provided no basis for her rejection of Plaintiff's testimony that he falls asleep four to five times a day (other than citing the potential that new medication would help), which is especially problematic in light of the finding that Plaintiff lost his job as a stock clerk because he fell asleep. R. at 18. As the Magistrate Judge recommended, on remand, the ALJ may wish to develop the record further by obtaining a sleep expert or a current evaluation of Plaintiff's sleep disorders, or both.